IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929

WP(C).No. 31776 of 2007(G)

AGAINST THE ORDER IN EP 1441/2005. IN ARC.537/2001 of PRL.M.C.,THRISSUR

.....

PETITIONER:

Sajeevan, S/o. Velayudhan, Aged 42, Nalupurakkal House, P.O., Anakkara, Poovathur, Thrissur. Pin 620508.

BY ADV. SRI.PAUL JOSE

RESPONDENTS:
---

1. Nazeer Ahammed P.A., S/o. Abdul Rehman Haji, Puthiya Veedu, Kaipamamangalam, Pin 628028.

2. Priyadarshni Co-operative Housing Society Ltd., No.R.813, Ayyanthol, Thrissur, rep. by its Secretary, Pin 680003.

3. The Secretary, Co-operations, Government Secretariat, Thiruvananthapuram.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

==========

W.P(C).No.31776 of 2007

==========

Dated this the 25th day of October, 2007.

JUDGMENT

This Writ Petition is preferred to direct the Munsiff, Thrissur to pass orders on Exts.P1 and P7 before directing delivery of the property in the Execution Petition. The Execution Petition is filed on the basis of Ext.P5 award and that award only indicates that the person is entitled to a plot of 15 cents. Now the writ petitioner claims that he is entitled to the property and it is his property that is sought to be delivered and therefore moved Ext.P1 claim application and also Ext.P7 stay application. It is a settled principle of law now that a person need not be wait till the actual dispossession to prefer a claim application. When a claim application is filed and stay application is moved along with the same, it is only just and reasonable that the court passes an order in those applications before effecting actual delivery of the property.

2. Therefore, the Writ Petition is disposed of directing the Munsiff, Thrissur to dispose of Exts.P1 and P7 applications within a time frame of two months and till then, defer the delivery of the property. Needless to say that all parties are entitled to adduce evidence and produce documents in support of their respective contentions.

M.N.Krishnan,
Judge.

ess 25/10